

# SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.  
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER  
C. MICHAEL LOFTUS  
JOHN H. LE SEUR  
KELVIN J. DOWD  
ROBERT D. ROSENBERG  
CHRISTOPHER A. MILLS  
FRANK J. PERGOLIZZI  
ANDREW B. KOLESAR III  
PETER A. PFOHL  
DANIEL M. JAFFE  
KENDRA A. ERICSON

OF COUNSEL  
DONALD G. AVERY

TELEPHONE:  
(202) 347-7170

FAX:  
(202) 347-3619

WRITER'S E-MAIL:

February 15, 2006

rdr@sloverandloftus.com

## BY HAND

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
Case Control Unit  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

Re: STB Ex Parte No. 290 (Sub-No. 4),  
Railroad Cost Recovery Procedures -  
Productivity Adjustment

Dear Secretary Williams:

Enclosed please find an original and ten (10) copies of the Comments of the Western Coal Traffic League in the above-referenced proceeding.

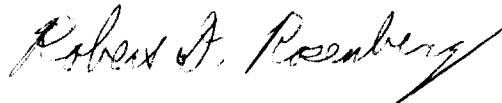
If there are any questions concerning this matter, please contact the undersigned.

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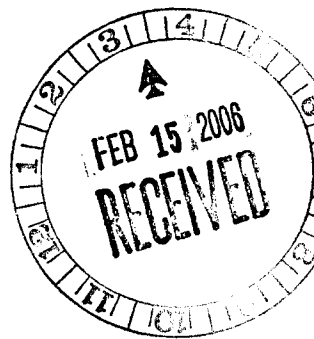
Respectfully submitted,



Robert D. Rosenberg  
An Attorney for Western  
Coal Traffic League

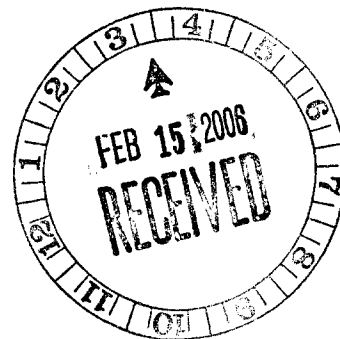
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Enclosures

cc: Service List



2 15810

BEFORE THE  
SURFACE TRANSPORTATION BOARD



215810

In the Matter of:

RAILROAD COST RECOVERY  
PROCEDURES - PRODUCTIVITY  
ADJUSTMENT

Ex Parte No. 290 (Sub-No. 4)

COMMENTS OF THE WESTERN COAL TRAFFIC LEAGUE

WESTERN COAL TRAFFIC LEAGUE

William L. Slover  
C. Michael Loftus  
Robert D. Rosenberg  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036  
(202) 347-7170

Its Attorneys

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Dated: February 15, 2006

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In the Matter of:	)	
	)	
RAILROAD COST RECOVERY	)	Ex Parte No. 290 (Sub-No. 4)
PROCEDURES - PRODUCTIVITY	)	
ADJUSTMENT	)	
	)	

In response to the Board's decision in the above-captioned proceeding served January 26, 2006, as corrected by the decision served January 31, 2006 (the "Decision"), the Western Coal Traffic League ("WCTL")<sup>1</sup> states that the Board's calculation of 2004 productivity growth at 0.977 appears to be correct under the Board's established methodology. However, WCTL is compelled to take issue with various statements in the Decision, particularly those that purport to explain the decrease in productivity and the treatment of special charges.

First, the second explanation offered by the Decision for the decline in productivity (“the replacement of the higher 1999 productivity value of 1.024 by the lower 2004 productivity value of 0.977 in the 5-year rolling average”) provides a complete mechanical explanation for the full change in productivity in the rolling average. The other matters noted in the Decision merely elaborate on the derivation of the 2004 figure, but in a way that is incomplete and ultimately misleading.

<sup>1</sup>WCTL is a voluntary association, whose regular membership consists entirely of utility shippers of coal mined west of the Mississippi River that is transported by rail. WCTL members presently ship and receive in excess of 100 million tons of coal by rail each year. A list of WCTL's regular members is attached as Exhibit A.

In particular, the statement that the “remainder” of the change not accounted by the special charges results from “an increase in Class I railroad expenses and a decrease in output as measured by the Waybill Sample from the 2003 level [emphasis added]” is incorrect in that output in 2004 actually increased (by 3.3%) compared to output in 2003. The negative productivity for 2004 occurred because input or expenses increased by a larger amount (5.7%). Special charges contributed to the increase in costs relative to output for 2004 (which is why 2004 productivity is less than 1.000 or negative).

Second, the Decision omits any discussion of a key factor affecting productivity, namely, the service problems that the industry experienced in 2004, particularly the inability of Union Pacific Railroad Company (“UP”) again to meet customer requirements and the continuing operational problems of CSX Transportation, Inc. (“CSXT”). Service problems impair productivity in two distinct ways: first, by reducing industry output (the volume of traffic handled by the railroads), and second, by increasing the expenses of costs of the volume that industry is able to transport. The combined effect is to reduce output and increase input, which impairs productivity growth and/or results in negative productivity, as occurred in 2004.

Accordingly, any discussion of industry productivity that ignores service problems is necessarily incomplete. The service problems should also be considered in determining the revenue levels that are to be established “under honest, economical, and efficient management” in accordance with 49 U.S.C. § 10704(a)(2), since economical and efficient carriers would avoid service breakdowns, especially repeated ones in the case of

UP and CSXT. Moreover, the absence of service breakdowns would cause a least-cost, most-efficient stand-alone railroad to exceed industry average productivity.

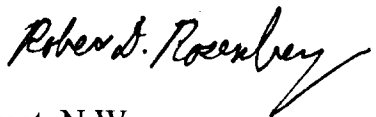
Third, the Decision's treatment of the special charges for environmental and asbestos costs is incomplete. These special charges serve as a credit or reserve to be applied against subsequent cash expenditures for settlements, remediation, etc. This treatment may be permissible under generally accepted accounting principles. Nonetheless, the effect of including special charges in 2004 for costs that will actually not be paid until later years is to suppress the measurement of current productivity by accelerating the recognition of future expenses.

In addition, the Decision's statement at n.2 that "those expenses will not affect future years' productivity measurements" is also incomplete in that it ignores the fact that the absence of the special charge in the next year will cause an offsetting increase in productivity. Suppose, for example, that productivity growth in 2004 and 2005 were otherwise flat (1.000), but that 2004 had a special charge corresponding to 1% of total expenses/input and that there was no equivalent special charge in 2005. Under the hypothetical, 2004 would experience a productivity decline of 1% ( $1.000/1.01=0.990$ ). However, there will be an offsetting increase of 1% in 2005 productivity ( $1.000/0.990=1.010$ ). The 2005 increase will thus "neutralize" the 2004 decrease in the multiple-year average so long as both years remain part of the average, but the accelerated expenses embodied in the 2004 special charge will not be fully offset until 2004 exits the rolling average.

Finally, WCTL submits that productivity change for 2004 should be stated as a 2.3% or 0.023 decrease  $((0.977/1.000) - 1.000)$  from the prior year (2003), and not as 4.1% or 0.041 decrease  $((0.977/1.019) - 1.000)$  as stated in the Decision, since annual productivity is defined in terms of the change in output relative to input compared to the prior year. To claim that productivity declined by 4.1% is effectively an attempt to compare (a) the change from 2003 to 2004 to (b) the change from 2002 to 2003, rather than the change in 2004 to 2003. If (a) is the calculation the Decision intends to depict, it might phrase it as "[t]he rate of productivity growth for the year 2004 is 0.977 based on changes input and output levels from 2003, representing a decrease of 4.1% from the rate of productivity growth in 2003 relative to 2002 (1.019)."

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE

William L. Slover  
C. Michael Loftus  
Robert D. Rosenberg   
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036  
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Dated: February 15, 2006

Its Attorneys

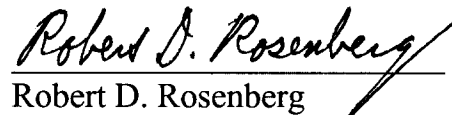
## **EXHIBIT A**

### **WESTERN COAL TRAFFIC LEAGUE MEMBERS**

Alliant Energy  
Ameren Energy Fuels and Services  
Arizona Electric Power Cooperative, Inc.  
Arizona Public Service  
Associated Electric Cooperative, Inc.  
Cleco Corporation  
City of Austin, Texas  
CPS Energy  
Kansas City Power & Light Company  
Lower Colorado River Authority  
MidAmerican Energy Company  
Minnesota Power  
Nebraska Public Power District  
Omaha Public Power District  
Texas Genco, LP  
Texas Municipal Power Agency  
Western Farmers Electric Cooperative  
Western Fuels Association, Inc.  
Wisconsin Public Service Corporation  
Xcel Energy

Certificate of Service

I hereby certify that today, February 15, 2006, copies of the foregoing Comments of the Western Coal Traffic League have been served on all parties of record in this proceeding by first class mail, postage prepaid, in accordance with the Board's Rules of Practice.

  
Robert D. Rosenberg